UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,884	03/19/2007	Paul Tidwell	3772-36	3720

23117 7590 06/16/2010

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
PHAM, TIMOTHY X	
ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
06/16/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/590,884	TIDWELL, PAUL	
	Examiner	Art Unit	
	TIMOTHY PHAM	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 April 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *14,15 and 20-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *14-15, 20-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2/19/2010*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Remarks

1. Claims 14-15 and 20-27 are pending in this application. Claims 16-19 are cancelled. Claim 27 are newly added.

Response to Arguments

2. Applicant's arguments with respect to claims 14-15, 20-27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 14-15, 20-21, 23, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann et al. (hereinafter "Baumann", US Patent No. 7047309) in view of Li et al. (hereinafter "Li"; US 2005/0128954) Gannage et al. (hereinafter "Gannage"; US 2004/0151158; Cited in PTO-892 Part of Paper 20091223).

Regarding claims 14, 25-27, Baumann discloses a method, a Media Resource Function node for use in a cellular telecommunications network and User Equipment of optimising the bandwidth usage on a Real-Time Protocol managed link transporting media between User Equipment and a Media Resource Function of a cellular telecommunications network, the method comprising:

sampling, at one of the User Equipment and the Media Resource Function, a rate of packet loss on the link (col. 7 lines 45-58);

applying a sliding window to the sampled values (col. 2 lines 20; col. 5 lines 19, 45-48; col. 14 lines 10-15, e.g., sliding window), and calculating an average or other statistically representative value across the window at one of the User Equipment and the Media Resource Function (col. 2 lines 20; col. 5 lines 19, 45-48; col. 14 lines 10-15, e.g., average or mean);

comparing the representative loss rate to a predefined acceptable loss rate at one of the User Equipment and the Media Resource Function (col. 7 lines 54-58, e.g., A measurement is complete when the level of confidence in its value reaches a predetermined threshold);

Baumann discloses the transmission data rate adjustable (col. 7 lines 53-56), but Baumann fails to specifically disclose if the representative loss rate exceeds the acceptable loss rate and if a pre-defined time period has elapsed since a sending rate over the link was last adapted, then decreasing the sending rate over the link at one of the User Equipment and the Media Resource Function; if the representative loss rate is less than the acceptable loss rate and if a pre-defined good performance time period has elapsed since the sending rate over the link was last adapted, then increasing the sending rate over the link at one of the User Equipment and the Media Resource Function; and in the event that the pre-defined time period and the pre-defined good performance time period have not elapsed since the sending rate was last adapted, keeping the sending rate over the link unchanged.

However, Li discloses if the representative loss rate exceeds the acceptable loss rate and if a pre-defined time period has elapsed since a sending rate over the link was last adapted, then decreasing the sending rate over the link at one of the User Equipment and the Media Resource

Function (paragraphs [0019], [0027], [0029], [0033]); if the representative loss rate is less than the acceptable loss rate and if a pre-defined good performance time period has elapsed since the sending rate over the link was last adapted, then increasing the sending rate over the link at one of the User Equipment and the Media Resource Function (Fig. 4B, reference 250, 270; Fig. 6, references 406, 410; paragraphs [0023], [0030]); and in the event that the pre-defined time period and the pre-defined good performance time period have not elapsed since the sending rate was last adapted, keeping the sending rate over the link unchanged (claims 3 and 11; paragraphs [0020]).

Therefore, taking the teachings of Baumann in combination of Li as a whole, it would have been obvious to one having ordinary skill in the art at the time of the invention by applicant to have the representative loss rate exceeds the acceptable loss rate and if a pre-defined time period has elapsed since a sending rate over the link was last adapted, then decreasing the sending rate over the link at one of the User Equipment and the Media Resource Function; if the representative loss rate is less than the acceptable loss rate and if a pre-defined good performance time period has elapsed since the sending rate over the link was last adapted, then increasing the sending rate over the link at one of the User Equipment and the Media Resource Function; and in the event that the pre-defined time period and the pre-defined good performance time period have not elapsed since the sending rate was last adapted, keeping the sending rate over the link unchanged for advantages of dynamically adaptable during data transmission in order to achieve the best throughput (Li: paragraph [0006]).

Baumann in combination with Li fails to specifically disclose the Media Resource Function.

However, Gannage discloses the Media Resource Function (paragraph [0033]).

Therefore, taking Baumann in combination with Li and Gannage as a whole, it would have been obvious to one having ordinary skill in the art at the time of invention by applicant to have the Media Resource Function for advantages of handling real time transfer of voice through streaming (Gannage: paragraph [0008]).

Regarding claim 15, Baumann in combination with Li and Gannage discloses the method according to claim 14, wherein the Media Resource Function handles media distribution for Push-to-talk over Cellular services (Gannage: paragraphs [0006], [0033], e.g., Push to Talk).

Therefore, taking Baumann in combination with Li and Gannage as a whole, it would have been obvious to one having ordinary skill in the art at the time of invention by applicant to have the Media Resource Function handles media distribution for Push-to-talk over Cellular services for advantages of handling real time transfer of voice through streaming (Gannage: paragraph [0008]).

Regarding claim 20, Baumann in combination with Li and Gannage discloses the method according to claim 14, wherein the pre-defined good performance time period which is used to determine whether or not the sending rate may be increased is greater than the predefined time period used to determine whether or not the sending rate may be decreased (Gannage: paragraphs [0025], [0032]).

Therefore, taking Baumann in combination with Li and Gannage as a whole, it would have been obvious to one having ordinary skill in the art at the time of invention by applicant to have the pre-defined good performance time period which is used to determine whether or not

the sending rate may be increased is greater than the predefined time period used to determine whether or not the sending rate may be decreased for advantages of handling real time transfer of voice through streaming.

Regarding claim 21, Baumann in combination with Li and Gannage discloses the method according to claim 14, wherein the step of sampling is carried out at one or both of the User Equipment and the Media Resource Function (Baumann: col. 7 lines 45-58).

Regarding claim 23, Baumann in combination with Li and Gannage discloses the method according to claim 14, wherein decisions to adapt the sending rate over the link are made at the Media Resource Function (Gannage: paragraph [0033]).

Therefore, taking the combined teachings of Baumann, Li and Gannage as a whole, it would have been obvious to one having ordinary skill in the art at the time of invention by applicant to have decisions to adapt the sending rate over the link are made at the Media Resource Function for advantages of handling real time transfer of voice through streaming.

5. Claims 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann in combination with Li and Gannage in view of Vimpari (US 20030117972; Cited in PTO-892 Part of Paper 20091223).

Regarding claim 22, Baumann in combination with Li and Gannage discloses the method according to claim 21, fails to specifically disclose wherein the UE samples the rate of packet loss on the downlink, while the Media Resource Function samples the rate of packet loss on the uplink.

However, Vimpari discloses the samples packet loss on the downlink at the UE and the samples packet loss on the uplink at MRF (paragraphs [0005], [0031]).

Therefore, taking teachings of Baumann in combination with Li, Gannage and Vimpari as a whole, it would have been obvious to one having ordinary skill in the art at the time of invention by applicant to have the UE samples the rate of packet loss on the downlink, and the Media Resource Function samples the rate of packet loss on the uplink for advantages of handling real time transfer of voice through streaming.

Regarding claim 24, Baumann in combination with Li and Gannage discloses the method according to claim 14, fails to specifically disclose wherein the UE samples the rate of packet loss on a downlink, whilst the Media Resource Function samples the rate of packet loss on an uplink, and decisions to adapt the sending rate over the link are made at the Media Resource Function, wherein the UE sends the sampled rate or an analysis of the rate to the Media Resource Function.

However, Vimpari discloses the UE samples the rate of packet loss on a downlink, whilst the Media Resource Function samples the rate of packet loss on an uplink, and decisions to adapt the sending rate over the link are made at the Media Resource Function (paragraphs [0005], [0031]), wherein the UE sends the sampled rate or an analysis of the rate to the Media Resource Function (paragraphs [0005], [0031]).

Therefore, taking teachings of Baumann in combination with Li, Gannage, and Vimpari as a whole, it would have been obvious to one having ordinary skill in the art at the time of invention by applicant to have the UE samples the rate of packet loss on a downlink, whilst the Media Resource Function samples the rate of packet loss on an uplink, and decisions to adapt the

sending rate over the link are made at the Media Resource Function, wherein the UE sends the sampled rate or an analysis of the rate to the Media Resource Function advantages of handling real time transfer of voice through streaming.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY PHAM whose telephone number is (571)270-7115. The examiner can normally be reached on Monday-Friday; 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent P. Harper can be reached on 571-272-7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Timothy Pham/
Examiner, Art Unit 2617

/VINCENT P. HARPER/
Supervisory Patent Examiner, Art Unit 2617